

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

O R D E R

Indian Oil Corpn.Ltd. v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.1550/1992
under Article 226 of the
Constitution of India.

Date of Order : 21st February, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Jitendra Chopra, for the petitioner.
Mr. R.K.Singhal, for the respondents.
Mr. S.N.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

Petitioner Indian Oil Corporation Limited has preferred this writ petition giving challenge to the order passed by Collector, Churu to attach petrol pump run by the petitioner at Sri Dungargarh on government land bearing khasra No.491. A challenge is also given to the order dated 10.10.1991 passed by Collector, Churu whereby the petitioner corporation was directed to make payment of sum of Rs.86,232/- against rent for utilising government land situated in Sri Dungargarh town bearing khasra No.491.

The facts in brief are that in the year 1966-67 the petitioner established a retail outlet in town Sri Dungargarh on National High Way No.11 near mile stone No.1/1. A piece of land was

allotted by the State Government in this regard to the petitioner on executing a lease deed on 6.12.1966. The allotment of land was made under Rajasthan Industrial Area Allotment Rules, 1959 (hereinafter referred to as "the Rules of 1959"). According to the rent deed executed between the parties the petitioner corporation was required to pay a sum of Rs.19/- per annum as rent. The rent was required to be paid by the corporation or its agent on 7th day of each calendar year. The lessee also agreed to pay lessor a sum of Rs.125/- every year against development charges in accordance with the provisions of Rule 3(1) to Rule 3(4) of the Rules of 1959. The annual rent so fixed was made subject to revision after every 10 years and the enhancement in the rent at each revision was restrained to the extent of 25% of the rent payable for the period immediately preceding such revision. An option was given to lessee to renew the said lease for further period of 25 years after expiry of term of the existing lease. The parties also agreed that in case any default is made by lessee in respect of any of the terms and conditions the plot of land shall revert to lessor and the lessee shall have to remove therefrom at his cost all the buildings and structure constructed by him. The Collector, Churu ordered to attach the petrol pump as the petitioner failed to make payment of rent after 1.12.1975. The collector considered the same a violation of the terms and conditions of the lease deed and, therefore, passed the orders impugned.

The petitioner preferred present writ petition with a contention that no term or condition was violated as the rent was paid time to time for a period of 9 years but in the year 1975 the rent could not be paid as the District Collector or the Tehsildar failed to issue a demand note as envisaged in lease deed. It is also contended by the petitioner that under the directions of Revenue Commissioner, Government of Rajasthan, Jaipur the petitioner deposited a sum of Rs.10,000/- for the alleged violation of condition of lease and the Collector, Churu was directed by the Revenue Commissioner to allow the petitioner to operate the petrol pump, yet the District Collector issued demand for enhanced rent and passed the orders impugned.

This Court by order dated 17.3.1992 admitted the writ petition and also pleased to grant an interim order staying operation of order Anx.14. The interim order passed by this Court was confirmed on 11.2.1993. It is informed by the parties that the petitioner corporation is running petrol pump even today at the disputed site in pursuance of the interim order dated 11.2.1993.

An application has been filed today before the Court on behalf of the petitioner to take certain facts and a document on record and to consider the same while hearing the petition. It is stated in the application filed today that entire rent due @ 19/- per annum has already been

paid by the corporation to the respondents. A sum of Rs.20,962/- has been recovered by the respondents by making sale of petroleum products seized from the petrol pump. An information with regard to recovery of sum of Rs.20,962/- was given by the Tehsildar, Sri Dungargarh to the dealer of the petitioner corporation under a communication dated 23.3.1989 which is placed on record along with the application as Anx.15.

As I stated above, the corporation is still running petrol pump at the site in pursuance of the interim directions given by this Court. The petrol pump was established by the corporation in the year 1966 i.e. about 38 years back.

After hearing the parties, I am satisfied that the dispute can be resolved by the parties themselves if an opportunity be given to the petitioner to submit representation to the Collector, Churu ventilating its grievance and placing its version before him. A period of 25 years has also been passed and, therefore, parties may also renew the lease by negotiating afresh.

Looking to the attitude and approach of the parties as shown while hearing then petition, this writ petition is disposed of with the direction to the Indian Oil Corporation to submit a detailed representation to the Collector, Churu ventilating its grievance with regard to the orders impugned and also placing its version to

resolve the controversy which shall be submitted within eight weeks from today. The orders impugned passed by the Collector, Churu which are on record as Anx.10 and 14 shall not be given effect till disposal of the representation submitted by the petitioner corporation to the Collector, Churu. The Collector will decide the representation by a speaking and reasoned order and also with a view to ensure protection of rights and interest of the State Government as well as of the corporation which is a public sector undertaking. If the Collector, Churu decides the representation against the corporation then effect be not given to orders impugned at least for a month enabling corporation to take appropriate steps for redressal of its grievance either before the higher authorities or before appropriate judicial forum. As I have not entered into merits of the case, therefore, if the corporation have any grievance with decision of the Collector then all the contentions raised in this writ petition shall be available to the petitioner to challenge the decision of the Collector including the orders impugned in the writ petition.

with these observations the writ petition is disposed of.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.